



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

P.O. Box 3000, Harrisonburg, Virginia 22801

(540) 574-7800 Fax (540) 574-7878

Physical Address: 4411 Early Road, Harrisonburg, VA

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

Amy Thatcher Owens
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

MASCO CABINETRY LLC

FOR

MASCO CABINETRY – MERILLAT MT. JACKSON PLANT

Registration No. 81062

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and MASCO Cabinetry LLC, regarding the MASCO Cabinetry – Merillat Mt. Jackson Plant, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, Regulations and the applicable permit.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" means the MASCO Cabinetry – Merillat Mt. Jackson facility, located at 1325 Industrial Park Road in Shenandoah County, Virginia.
6. "MASCO" means MASCO Cabinetry LLC, a limited liability company authorized to do business in Virginia, and its members, affiliates, partners, and subsidiaries. MASCO is a "person" within the meaning of Va. Code § 10.1-1300. .
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
9. "PCE" means a partial compliance evaluation by DEQ staff.
10. "Permit" means the Title V permit to operate a manufacturing plant for wood cabinet components, which was issued under the Virginia Air Pollution Control Law and the Regulations to MASCO on September 1, 2014, under Registration No. 81062.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Va. Code" means the Code of Virginia (1950), as amended.
13. "VAC" means the Virginia Administrative Code.
14. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. MASCO owns and operates the Facility in the Shenandoah County, Virginia. The Facility is the subject to the Permit, issued on September 1, 2014.
2. On February 1, 2019, DEQ staff received a MACT 5D report from MASCO for Boiler B1. Boiler B1 has a heat input capacity of 28.7 MMBtu/hour. DEQ performed a PCE of the report, and MASCO reported that the 2018 annual tune-up was missed. The previous tune-up for Boiler B1 was completed on November 6, 2017. The report indicated that the tune-up was scheduled to be performed on February 6, 2019.

3. On April 30, 2019, DEQ received a MACT 5D report from MASCO for Boiler B2. Boiler B2 has a heat input capacity of 14.7 MMBtu/hour. DEQ performed a PCE of the report, and MASCO reported that the 2018 annual tune-up was missed. The report stated that the annual tune-up was performed on February 6, 2019. The previous tune-up for Boiler B2 was conducted on November 22, 2017. The report was not post-marked or received prior to January 31, 2019.
4. On November 19, 2019, DEQ received an email from MASCO stating that the annual tune-up for Boiler B1, scheduled for February 6, 2019, did not occur until April 18, 2019 due to a malfunction with the combustion air fan. The combustion air fan was corrected prior to the tune-up.
5. Permit Condition 15 states: "No later than January 31, 2016, the two boilers (B1 and B2) shall comply with the initial compliance (Section 63.7510) and continuous compliance (Section 63.7535 – Section 63.7540) requirements of 40 CFR 63, Subpart DDDDD."
5. 40 CFR 63.7540(a)(10) states: "If your boiler or process heater has a heat input capacity of 10 million BTU per hour or greater, you must conduct an annual tune-up of the boiler or process heater to demonstrate continuous compliance as specified in paragraphs (a)(10)(i) through (vi) of this section..."
6. 40 CFR 63.7515(d) states: "If you are required to meet an applicable tune-up work practice standard, you must conduct an annual, biennial, or 5-year performance tune-up according to 63.7540(a)(10), (11), or (12), respectively. Each annual tune-up specified in 63.7540(a)(10) must be no more than 13 months after the previous tune-up..."
7. 40 CFR 63.7550(b)(4) states: "Annual, biennial, and 5-year compliance reports must be postmarked or submitted no later than January 31."
8. On June 6, 2019, based on the evaluation and follow-up information, DEQ issued NOV No. AVRO001220-001 to MASCO for the violations described in paragraphs C(2) through C(7), above.
9. On July 16, 2019, DEQ staff met with MASCO representatives to discuss the NOV. At the meeting, MASCO explained that the delay in performing the annual tune-ups was associated with a change in personnel. MASCO has implemented additional contingencies to prevent a delay in performing the annual tune-ups in the future including using multiple systems to provide reminders and scheduling the tune-ups in advance of the due dates.
10. Based on the results of the February 5, 2019 PCE, the April 30, 2019 PCE, and the documentation submitted on November 19, 2019, the Board concludes that MASCO has violated Permit condition 15, 40 CFR 63.7540(a)(10), 40 CFR 63.7515(d), and 40 CFR 63.7550(b)(4), as described in paragraphs C(2) through C(10), above.

11. DEQ has verified that the violations described in paragraphs C(2) through C(7), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders MASCO, and MASCO agrees to:

1. Pay a civil charge of \$15,169.70 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

MASCO shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, MASCO shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of MASCO for good cause shown by MASCO, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. AVRO001220-001 dated June 6, 2019. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, MASCO admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. MASCO consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. MASCO declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by MASCO to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. MASCO shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. MASCO shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. MASCO shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.

10. This Order shall become effective upon execution by both the Director or his designee and MASCO. Nevertheless, MASCO agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until:

- a. the Director or his designee terminates the Order after MASCO has completed all of the requirements of the Order;
- b. MASCO petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to MASCO.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve MASCO from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by MASCO and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.

13. The undersigned representative of MASCO certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind MASCO to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of MASCO.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, MASCO voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 5th day of February, 2020.

A handwritten signature in black ink, appearing to read "Amy T. Owens", written over a horizontal line.

Amy T. Owens, Regional Director
Department of Environmental Quality

------(Remainder of Page Intentionally Blank)-----

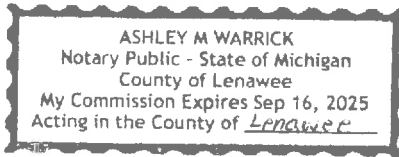
MASCO Cabinetry LLC voluntarily agrees to the issuance of this Order.

Date: 2/5/2020 By: Chris Winans, Vice President of Operations
(Person) (Title)
MASCO Cabinetry LLC

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this 5 day of
February, 2020, by Chris Winans who is
Vice President of Operations of MASCO Cabinetry LLC, on behalf of the company.

Ashley M Warrick
Notary Public



Registration No.

My commission expires: Sept. 16, 2025

Notary seal: